IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 101 OF 2005

Chandrakant J. Chalke & Anr ...Petitioners

Versus

Maharashtra Housing and Area Development Board, Pune & Ors. ...Respondents

.....

Mr.P.B. Shah and A.B. Avhad, for Petitioners.

Mr.A.H. Palekar, A.G.P. for Respondent Nos. 1 & 2.

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CORAM: B. H. MARLAPALLE, J.

DATED: 31ST JANUARY, 2005

P.C.:-

1. Heard Mr. Shah, the learned counsel for the petitioners. Leave to delete the respondent No.3.

2. The competent authority passed an order on 13.9.1993 for eviction under Section 66 of the Maharashtra Housing and Area Development Act. The said order was challenged in Appeal No. 145 of 1993 and it has been dismissed on 14.12.2004 by the President of Maharashtra Slum Area Tribunal at Mumbai.

3. By referring to the order of eviction, Mr. Shah, the learned counsel for the petitioners submitted

that once it was held that the subject premises i.e. Gala No. 18/169, Gokhale Nagar, Pune was not sublet, the proceedings under Section 66 of the Act were not tenable. It is admitted that this question of law was not raised in the appeal decided by the lower appellate authority before whom it was mainly contended that the principles of natural justice were violated and the inspection report was also not considered. The authorities below have recorded the concurrent findings that the petitioners were unauthorised occupants and they were not the owners. Nor had they obtained the permission for regularization of the sale transaction, if any. On the face of these findings, there is no merit in the challenge raised to the view taken by the competent authority as well as the appellate authority.

4. However, Mr. Shah, the learned counsel for the petitioners submitted that an application for regularization of sale transaction has been pending with the respondents for quite some time and by referring to the Government Resolution dated 18.5.1987 it was submitted that the Government itself had decided as a matter of policy decision to regularize such transactions and even if the occupants were found to be unauthorised so far as it related to single storeyed buildings. He, therefore, prays for directions to the respondents to consider

the said application and decide within the fixed period.

5. Hence, this petition challenging the order passed by the authorities below fails and the same is hereby rejected summarily. However, the respondents are directed to decide the pending application, if any, submitted by the petitioners or their principals (original allotees) as expeditiously as possible and in any event within a period of one month from today, as per Rules. The petitioners' possession shall be protected till the application is decided.

6. Certified copy is expedited.